

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE AEGEAN MARINE PETROLEUM  
NETWORK, INC. SECURITIES  
LITIGATION ) Case No. 18 Civ. 4993 (NRB)  
 )  
 )  
 )  
 )  
 )  
 )  
 )  
 )  
 )  
 )  
 )

**LEAD PLAINTIFF'S STATUS REPORT REGARDING SERVICE OF THE  
CONSOLIDATED CLASS ACTION COMPLAINT**

Pursuant to the Court’s December 20, 2018 Revised Scheduling Order, ECF No. 78 (“Revised Scheduling Order”), Court-appointed Lead Plaintiff Utah Retirement Systems (“Lead Plaintiff” or “URS”) respectfully submits this Status Report to update the Court regarding service of process of the Consolidated Class Action Complaint, filed herein on February 1, 2019, ECF No. 81 (“Consolidated Complaint”) in this Action.<sup>1</sup>

The Consolidated Complaint alleges claims for violations of Sections 10(b), 20(a), 20(b) and 20A of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. §§ 78j(b), 78t(a), 78t(b) and 78t-1, and the rules and regulations promulgated thereunder, including Rule 10b-5, 17 C.F.R. §§ 240.10b-5(b) (misrepresentations and omissions) and 240.10b-5(a) and (c) (scheme liability), in connection with a fraudulent scheme at Aegean Marine Petroleum Network Inc. (“Aegean Marine,” “Debtor” or the “Company”). The claims are brought against former and current officers and directors of the Company as well as its former auditors. Defendants’ scheme took place over at least an eight-year period during which defendants (a) significantly overstated the Company’s income and revenue; (b) overstated the Company’s assets and the strength of its balance sheet; and (c) misled investors concerning the adequacy of the Company’s internal controls over financial reporting.

Because of actions undertaken by certain shareholders, the Company’s entire Audit Committee was forced to step down in May 2018, and a reconstituted Audit Committee (the “Reconstituted Audit Committee”) was formed with new, independent directors. Only weeks later, on June 4, 2018, the Company shocked the market by revealing that it had discovered that \$200

---

<sup>1</sup> Pursuant to the Revised Scheduling Order, Lead Plaintiff filed its Consolidated Complaint on January 31, 2019, ECF No. 79. However, due to an ECF filing error, the filing was rejected, and, after Court approval, the Consolidated Complaint was refiled and ordered accepted as of February 1, 2019.

million in accounts receivable had to be written off because the receivables were based on bogus transactions. The Reconstituted Audit Committee announced that it had retained counsel and forensic accountants to conduct an internal investigation.

Then, on November 2, 2018, under new leadership, the Company admitted that the Company’s “senior managers” and the Company’s founder had engaged in an elaborate fraudulent scheme where (a) the Company’s financial results were manipulated by improperly booking approximately \$200 million in accounts receivables from bogus transactions with shell companies controlled by former employees or affiliates of the Company, which artificially inflated the Company’s earnings and revenue; and (b) approximately \$300 million in cash and assets had been misappropriated by the founder and/or his affiliates. This fraudulent scheme was so significant that it led to the filing of proceedings under Chapter 11 of the U.S. Bankruptcy Code on November 6, 2018 (only four days after revealing the preliminary results of the Company’s internal investigation). The Company was delisted from the NYSE on December 3, 2018 and the stock now trades at \$0.043 per share on the over-the-counter (“OTC”) market.

Because the Company was headquartered in Athens, Greece and also operated out of New York, defendants are domiciled and/or headquartered in the United States, Greece and the United Kingdom:

- Defendants located in the United States (“Domestic Service”) include:
  - E. Nikolas Tavlarios, President and Chief Executive Officer of Aegean Marine from December 2006 to June 1, 2017.
  - Peter C. Georgopoulos, Chairman of Aegean Marine’s Board of Directors from December 2006 to June 2017.
  - John P. Tavlarios, member of Aegean Marine’s Board of Directors from December 2006 to June 2017.
  - George Konomos, member of Aegean Marine’s Board of Directors since November 2008 and former Chairman of the Audit Committee.

- Deloitte & Touche LLP.
- PricewaterhouseCoopers, LLP.
- Defendants located in Greece (“Greek Service”) include:
  - Dimitris Melisanidis (aka Melissanidis), Aegean Marine’s Founder and President and Chief Executive Officer from June 2005 to December 2006, and he also served as the Company’s director and Chairman of the Board until July 2006.
  - Spyros Gianniotis, Chief Financial Officer of Aegean Marine from 2008 to April 17, 2018.
  - Jonathan McIlroy, President of Aegean Marine from July 2017 to November 2018, and Manager of Global Trading from January 2016 to July 2018.
  - Spyridon Fokas, Aegean Marine’s General Counsel and member of the Company’s Board of Directors since June 2005.
  - Yiannis N. Papanicolaou, member of Aegean Marine’s Board of Directors since December 2006, Chairman of the Compensation Committee, member of the Nominating and Corporate Governance Committee and former member of the Audit Committee.
  - Konstantinos D. Koutsomitopoulos, member of Aegean Marine’s Board of Directors since May 2008 and Chairman of the Nominating and Corporate Governance Committee.
  - Deloitte Certified Public Accountants S.A.
  - PricewaterhouseCoopers S.A.
- Defendants located in the United Kingdom (“U.K. Service”) include:
  - Deloitte Touche Tohmatsu Limited.
  - PricewaterhouseCoopers International Limited.

Pursuant to the Revised Scheduling Order, none of these defendants need to respond to the Consolidated Complaint until further order of this Court, regardless of the effective date of service

of process. Lead Plaintiff intends to provide the Court with another update on the status of foreign service by April 1, 2019.

**I. STATUS OF SERVICE**

**A. DOMESTIC SERVICE**

All plaintiffs domiciled in the United States, the Domestic Service plaintiffs, have been served and Proofs of Service of Summons have been filed with the Court as follows:

**E. Nikolas Tavlarios**: E. Nikolas Tavlarios was served on February 5, 2019 by email on his counsel, Joshua A. Goldberg of Patterson Belknap Webb & Tyler LLP, pursuant to a previously agreed to and executed Stipulation between the parties. The Affidavit of Service was filed herein on February 7, 2019, ECF No. 84.

**Peter C. Georgopoulos**: Peter C. Georgopoulos was served by substitute service on February 18, 2019 at 251 Hammond Road, Millbrook, New York and on February 19, 2019 at 47 Charles Street, #49, New York, New York and the Affidavits of Service for these services were filed herein on February 25 and 26, 2019, ECF Nos. 89-90.

**John P. Tavlarios**: John P. Tavlarios was served by substitute service on February 7, 2019 and the Affidavit of Service was filed herein on February 19, 2019, ECF No. 86.

**George Konomos**: George Konomos was served by personal service on February 12, 2019 and the Affidavit of Service was filed herein on February 19, 2019, ECF No. 87.

**Deloitte & Touche LLP**: Deloitte & Touche LLP was served via its Registered Agent for Service of Process on February 7, 2019 and the Affidavit of Service was filed herein on February 19, 2019, ECF No. 85.

**PricewaterhouseCoopers, LLP:** PricewaterhouseCoopers, LLP was served via its Registered Agent for Service of Process on February 7, 2019 and the Affidavit of Service was filed herein on February 19, 2019, ECF No. 88.

## **B. INTERNATIONAL SERVICE**

On February 13, 2019, Lead Plaintiff engaged the Civil Action Group, Ltd. (dba APS International, Ltd.) (“APS”), a company based in Minneapolis, Minnesota, which has been conducting international service of process for about four decades,<sup>2</sup> to handle the international service of process under the Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters on the plaintiffs domiciled and/or headquartered in Greece and the United Kingdom.

### **1. GREEK SERVICE**

The documents for the Greek Service were sent to APS on February 13, 2019 for translation and Hague Service of Process. Our understanding from APS is that the translation process takes approximately 7-10 days but could take more time depending on the length and complexity of the documents and that the entire process for Hague Service would take approximately 12-16 weeks from the time the documents are sent abroad, but occasionally takes longer.

### **2. U.K. SERVICE**

The documents for the U.K. Service were sent to APS on February 19, 2019 for Hague Service of Process. Our understanding from APS is that the entire process for Hague Service would take approximately 12-16 weeks from the time the documents are sent abroad, but occasionally takes longer.

---

<sup>2</sup> See APS International Service of Process, <https://www.civilactiongroup.com/international-service-of-process/>.

## II. STATUS OF AEGEAN MARINE

Aegean Marine was formerly named as a defendant in the underlying complaints initiating this litigation prior to the Company filing a Chapter 11 bankruptcy petition on November 6, 2018. The bankruptcy proceeding is pending before the Honorable Michael E. Wiles and is captioned *In re Aegean Marine Petroleum Network, Inc.*, No. 1:18-BK-13374 (Bankr. S.D.N.Y.) (the “Bankruptcy Action”). Pursuant to 11 U.S.C. § 362(a), the filing of the Chapter 11 petition operates as an automatic stay against the continuation of litigation against Aegean Marine until such time as the stay is lifted, either as a matter of law or by order of the Bankruptcy Court. While Aegean Marine is not included as a named defendant in this Consolidated Complaint, claims against it have not been dismissed with prejudice.

Given the pendency of the Bankruptcy Action, Lead Counsel has retained bankruptcy counsel to assist in protecting the interests of the proposed class here (the “Class”) in the Bankruptcy Action (“Bankruptcy Counsel”). To date, Lead Counsel and Bankruptcy Counsel have taken significant steps to protect the interest of absent Class members. The discussion below summarizes some of those steps.

On January 4, 2019, at the direction of Lead Counsel, Bankruptcy Counsel filed a Limited Objection and Reservation of Rights (Bankr. ECF No. 266) (the “RSA Objection”) with respect to the Company’s motion (Bankr. ECF No. 223) (the “RSA Motion”) for entry of an order authorizing the Company to enter into and perform under a Restructuring Support Agreement (the “RSA”). The RSA Objection indicated that language should be added to the proposed order approving the RSA to make clear that the rights of Lead Plaintiff and the Class, and in particular, their rights in connection with confirmation of the Chapter 11 plan contemplated by the RSA, were not prejudiced or otherwise impacted by the approval of the RSA. On January 9, 2019, the Debtors

submitted a revised proposed order granting the RSA Motion (Bankr. ECF No. 275), clarifying certain issues raised in the RSA Objection. The Bankruptcy Court entered the revised proposed order on January 15, 2019 (Bankr. ECF No. 291).

On January 16, 2019, a proposed Joint Plan of Reorganization of Aegean Marine Petroleum Network Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code (the “Plan”) (Bankr. ECF No. 303) was filed in the Bankruptcy Action, which contained a sweeping third-party release that attempted to summarily curtail direct claims of Lead Plaintiff and the members of the Class against the non-debtor defendants in this Action. The Plan included release language that would have arguably released all Class members’ claims against all defendants, including those against the Company’s auditors (the “Release”). *See* definition of “Third Party Release” under Article IX.C. of the Plan, definition of “Released Parties” under Article I.A.134 of the Plan and definition of “Releasing Parties” under Article I.A.135 of the Plan.

Despite efforts to negotiate a carve-out from the Release for the Class members’ claims in this Action and to make additional modifications to the Plan, no agreement was reached prior to the deadline to file an objection to the disclosure statement for the Plan. Accordingly, on February 12, 2019, Bankruptcy Counsel, at the direction of Lead Counsel, filed an Objection to Approval of Disclosure Statement and Solicitation Procedures for Joint Plan of Reorganization of Aegean Marine Petroleum Network Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code (Bankr. ECF No. 356) (the “Disclosure Statement Objection”). In the Disclosure Statement Objection, Lead Plaintiff argued, among other things, that the Releases contemplated by the Plan rendered the Plan unconfirmable, and proposed language to carve out the claims of the Class members covered by this Action from the Release. The Disclosure Statement Objection argued, *inter alia*, that the Plan, through a “sweeping and virtually incomprehensible Third-Party Release

that attempts to engineer ‘deemed consent’ through an opt-out mechanism, seeks to summarily eviscerate the direct claims of Lead Plaintiff and the members of the Proposed Class … against the Non-Debtor Defendants in the Securities Litigation.” Bankr. ECF No. 356 at 1.

On February 13, 2019, the Company filed an amended Plan (Bankr. ECF No. 360) expressly carving out the Class members’ claims in this Action from the Release and including document preservation language, thereby addressing some of the most significant concerns outlined in the Disclosure Statement Objection.<sup>3</sup>

Additionally, on February 20, 2019, Lead Counsel and Bankruptcy Counsel filed Proofs of Claim against the Company in the Bankruptcy Action on behalf Lead Plaintiff, individually, and on behalf of the Class.

Dated: March 1, 2019

Respectfully submitted,

**BERMAN TABACCO**

By: /s/ Nicole Lavallee  
Nicole Lavallee (admitted *pro hac vice*)

Joseph J. Tabacco, Jr. (JT1994)  
Christopher T. Heffelfinger  
A. Chowning Poppler (admitted *pro hac vice*)  
44 Montgomery Street, Suite 650  
San Francisco, CA 94104  
Telephone: (415) 433-3200  
Facsimile: (415) 433-6382  
Email: [jtabacco@bermantabacco.com](mailto:jtabacco@bermantabacco.com)  
[nlavallee@bermantabacco.com](mailto:nlavallee@bermantabacco.com)  
[cheffelfinger@bermantabacco.com](mailto:cheffelfinger@bermantabacco.com)  
[cpoppler@bermantabacco.com](mailto:cpoppler@bermantabacco.com)

---

<sup>3</sup> The Plan currently provides for a limitation of recovery under the claims under Sections 20(a), 20(b) and 20A against four individual defendants, who are current directors of the Company, to insurance proceeds. *See* Bankr. ECF No. 360, Article IX.I.

Jay W. Eng  
One Liberty Square  
Boston, MA 02109  
Telephone: (617) 542-8300  
Facsimile: (617) 542-1194  
Email: [jeng@bermantabacco.com](mailto:jeng@bermantabacco.com)

*Counsel for Lead Plaintiff Utah Retirement Systems*

**CERTIFICATE OF SERVICE**

I am employed by Berman Tabacco, 44 Montgomery Street, Suite 650, San Francisco, California, 94104. I am over the age of 18 years and am not a party to this action. On March 1, 2019, using the U.S. District Court for the Southern District of New York's CM/ECF Electronic Filing system ("ECF system"), with the ECF ID registered to Nicole Lavallee and at her direction, I filed and electronically served true and correct copies of the foregoing document(s) on the recipients designated on the Electronic Mail Notice List for this case. The ECF system is designed to automatically generate an e-mail Notice of Electronic Filing ("NEF") message to all parties in the case, which constitutes service. The attached Manual Notice List generated by CM/ECF indicates that no participants require service by mail.

I further declare that on March 1, 2019, I electronically served true and correct copies of the document(s) described above by (i) email by transmitting true and correct Portable Document Format (PDF) copies via electronic mail from email address [kbecker@bermantabacco.com](mailto:kbecker@bermantabacco.com) on this date to the person(s) at the address(es) set forth below, and (ii) by mail by placing true copies thereof, enclosed in a sealed envelope, addressed as shown below, affixing proper first class postage, and depositing the envelope in the United States Mail at San Francisco, California, in accordance with Berman Tabacco's ordinary business practices:

Wine, Jamie  
Jason C. Hegt  
**LATHAM & WATKINS LLP**  
885 Third Avenue  
New York, NY 10022-4834  
Email: [Jamie.Wine@lw.com](mailto:Jamie.Wine@lw.com)  
[Jason.Hegt@lw.com](mailto:Jason.Hegt@lw.com)

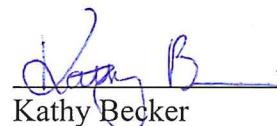
*Counsel for PricewaterhouseCoopers LLP*

Joshua A. Goldberg  
**PATTERSON BELKNAP**  
**WEBB & TYLER LLP**  
1133 Avenue of the Americas  
New York, NY 10036  
Email: jgoldberg@pbwt.com

*Counsel for E. Nikolas Tavlarios*

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed at San Francisco, California, on March 1, 2019.

  
\_\_\_\_\_  
Kathy Becker

## Mailing Information for a Case 1:18-cv-04993-NRB In re Aegean Marine Petroleum Network Inc. Securities Litigation

### Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

- **Naumon A Amjad**  
namjad@ktmc.com,rdegnan@ktmc.com,hpaffas@ktmc.com,iyeates@ktmc.com,4980043420@filings.docketbird.com,mswift@ktmc.com
- **Peretz Bronstein**  
peretz@bgandg.com,soloveichik@bgandg.com,ashi@bgandg.com
- **Jason N. Kleinwaks**  
jkleinwaks@gibsondunn.com
- **Eduard Korsinsky**  
ek@zlk.com
- **Nicole Catherine Lavallee**  
nlavallee@bermantabacco.com,ysoboleva@bermantabacco.com
- **Jeremy Alan Lieberman**  
jalieberman@pomlaw.com,ahood@pomlaw.com,disaacson@pomlaw.com,abarbosa@pomlaw.com
- **Christopher Lometti**  
clometti@cohenmilstein.com,efilings@cohenmilstein.com
- **Kim Elaine Miller**  
kim.miller@ksfcounsel.com,dawn.hartman@ksfcounsel.com,kimmiller225@yahoo.com
- **Aidan Chowning Poppler**  
cpoppler@bermantabacco.com
- **Lesley Frank Portnoy**  
LPortnoy@glancylaw.com,info@glancylaw.com,lesley-portnoy-3007@ecf.pacerpro.com
- **Ira M. Press**  
ipress@kmllp.com
- **David Avi Rosenfeld**  
drosenfeld@rgrdlaw.com,e\_file\_ny@rgrdlaw.com,2879289420@filings.docketbird.com,e\_file\_sd@rgrdlaw.com
- **Daniel Sadeh**  
dsadeh@bernlieb.com
- **Joseph J. Tabacco , Jr**  
jtabacco@bermantabacco.com,ysoboleva@bermantabacco.com
- **Matthew L Tuccillo**  
mltuccillo@pomlaw.com,disaacson@pomlaw.com,abarbosa@pomlaw.com

### Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

- (No manual recipients)